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In re Application of
MIROSHNICHENKO et al.
Application No.: 09/242,219
PCT No.: PCT/UA96/00016
Int. Filing Date: 13 November 1996
Priority Date: 10 September 1996
Attorney's Docket No.: 990056
For: HIGH DEFINITION TELEVISION SYSTEM

NOTIFICATION

This communication is in response to applicants' RESPONSE TO DECISION ON PETITION UNDER 37 CFR 1.182 filed 17 July 2000.

BACKGROUND

On 13 November 1996, applicant filed the above-identified international application, which claims a priority date of 10 September 1996 and designates the U.S. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 19 March 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 02 April 1998, prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 10 March 1999.

On 09 February 1999, applicant filed, in the United States Patent and Trademark Office (USPTO), a transmittal letter requesting entry into the U.S. national stage, which was accompanied by, *inter alia*, the requisite U.S. basic national fee, the surcharge under 37 CFR 1.492(e) for furnishing the oath or declaration later than 30 months from the earliest claimed priority, and a translation of the international application.

On 24 November 1999, the United States Designated/Elected Office (DO/EO) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b). The notification set a one-month period for reply.

On 06 December 1999, applicants submitted a declaration of inventors listing five joint inventors with signatures of four of the five inventors.

On 04 January 2000, the USPTO mailed a NOTIFICATION OF A DEFECTIVE RESPONSE (Form PCT/DO/EO/916) with an attached NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION (Form PCT/DO/EO/917) indicating that the response filed 06 December 1999 did not complete all of the requirements set forth in the NOTIFICATION OF MISSING REQUIREMENTS. Specifically, it was noted that the inventor Valeri Lydvikovich Koutsevich did not sign the declaration. Form 916 also stated that "[i]f there is a change, please file a petition indicating such change." The time limit for response was set at one

month from the date of mailing of the NOTIFICATION OF A DEFECTIVE RESPONSE or within the time remaining in the response set forth in the NOTIFICATION OF MISSING REQUIREMENTS, whichever was longer. It was also noted that no extension of this time limit would be granted under 37 CFR 1.136 but that the period for response in the NOTIFICATION OF MISSING REQUIREMENTS may be extended up to a maximum of six months.

On 07 February 2000, applicants submitted a "PETITION TO ACCEPT DECLARATION", which has been treated as a petition under 37 CFR 1.182.

On 23 June 2000, the USPTO mailed a decision dismissing applicants' petition under 37 CFR 1.182. The decision required applicants to file a new oath or declaration in compliance with 37 CFR 1.497(a)-(b) and to provide an explanation as to why the inventors signed a declaration listing a non-inventor.

On 17 July 2000, applicants submitted the instant RESPONSE TO DECISION ON PETITION UNDER 37 CFR 1.182 which was accompanied by a declaration of the inventors.

DISCUSSION

The declaration filed 17 July 2000 is in compliance with 37 CFR 1.497(a)-(b). This declaration contains spellings of several of the inventors' names which are different from the spellings in the published international application. However, the spellings on the declaration correspond to the spellings on the copy of the Request submitted 09 February 1999. Thus, it appears that the spellings on the declaration and Request are correct while the spellings on the published international application are incorrect. If this is not the case, applicant must *immediately* notify the PCT Legal Office of such fact.

The explanation regarding the declaration is accepted.

CONCLUSION

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including according the application 35 U.S.C. 102(e) and 371(c) dates of 17 July 2000.



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